

Petitioner still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has carefully reviewed the merits of petitioner's claim, the nature of factual issues raised in petitioner's allegations, and petitioner's ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering petitioner's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *See also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995). The court further finds that petitioner is an experienced pro se litigator, and this matter can be decided based on the record before the court.

ACCORDINGLY, petitioner's second motion for appointment of counsel [Docket #40] is DENIED.

IT IS SO ORDERED this 2nd day of January 2008.



James H. Payne
United States District Judge
Eastern District of Oklahoma